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Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

STATE OF DELAWARE,
Plaintiff,

STATE OF TEXAS,
Plaintiff-Intervenor,

v.

STATE OF NEW YORK,
Defendant.

STATEMENT OF THE PLAINTIFF-INTERVENOR STATES OF ALABAMA, ALASKA, ARKANSAS, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, IOWA, KANSAS, LOUISIANA, MAINE, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NORTH DAKOTA, OHIO, OKLAHOMA, RHODE ISLAND, SOUTH DAKOTA, UTAH, VERMONT, WASHINGTON, WEST VIRGINIA AND WYOMING, THE COMMONWEALTHS OF KENTUCKY AND PENNSYLVANIA AND THE STATE OF CALIFORNIA IN SUPPORT OF THE REPORT OF THE SPECIAL MASTER

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STATEMENT OF THE PLAINTIFF-INTERVENOR STATES OF ALABAMA, ALASKA, ARKANSAS, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, IOWA, KANSAS, LOUISIANA, MAINE, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NORTH DAKOTA, OHIO, OKLAHOMA, RHODE ISLAND, SOUTH DAKOTA, UTAH, VERMONT, WASHINGTON, WEST VIRGINIA AND WYOMING, THE COMMONWEALTHS OF KENTUCKY AND PENNSYLVANIA AND THE STATE OF CALIFORNIA IN SUPPORT OF THE REPORT OF THE SPECIAL MASTER

This original jurisdiction action involves a controversy among the several States over entitlement to custodial possession of unclaimed dividends, interest and other

distributions paid by issuers on securities and held for the beneficial owners of such securities by intermediaries such as brokerage firms, banks and depositories when there is no known identity and/or address of the beneficial owner.

The State of Delaware commenced this action in 1988 by filing suit against the State of New York, which to date has taken possession of virtually all the disputed property or has asserted the right to do so. On December 12, 1988, the Court appointed Thomas H. Jackson as Special Master. Subsequently, the remaining 48 States and the District of Columbia intervened or sought leave to intervene as plaintiffs.

Following extensive discovery concerning the structural flow of securities distributions, four rounds of briefing, oral argument, comments submitted by the parties to a 76-page draft Report circulated by the Special Master that included 14 pages of detailed factual findings and a three-page Proposed Decree, and two supplemental rounds of briefing, the Special Master on January 28, 1992 submitted his Report to the Court.

The Report concludes that (i) when there is no known identity and/or address of the beneficial owner of an unclaimed securities distribution, the State entitled to custodial possession of such distribution is the State in which the issuer of the security is located; (ii) the State of such issuer should be defined as the State of its "principal executive offices" as set forth in filings required by the Securities and Exchange Commission;[1] and (iii) the decision should be applied to all disputed property taken by New York.

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[1] When the issuer is a governmental entity, the Report concludes that the State of the governmental entity is entitled to custodial possession of the property.

Each party was given a full opportunity to set forth in great detail the factual and legal bases of its position. The Special Master's recommendations reflect an extraordinarily careful evaluation of the parties' respective submissions, the relevant facts and the controlling legal and equitable principles. These recommendations are supported by 44 States, including three States (California, Ohio and Rhode Island) that supported an alternative position before the Special Master. The 31 undersigned plaintiff-intervenor States take no exception to the Report, support it fully, and respectfully request this Court to adopt its recommendations. In accordance with this Court's briefing schedule, the undersigned States intend to file a Reply Brief on or before July 27 responding to such Exceptions as may be filed by other parties.

Dated: May 26, 1992

Respectfully submitted,

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